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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of Closed Captioning and Video)
Description of Video Programming)
Implementation of Section 305 of the)
Telecommunications Act of 1996)
Video Programming Accessibility)

MM Docket No. 95-176

REPLY COMMENTS

The Wireless Cable Association International, Inc. ("WCA"), by its attorneys, hereby submits its reply comments in response to the *Further Notice of Proposed Rulemaking* ("FNPRM") issued in the above-captioned proceeding.

The initial comments on the *FNPRM* confirm several basic facts which are essential to any equitable resolution of the issues raised by the Commission in this proceeding. First, it is readily apparent that, as noted in WCA's comments, neither multichannel video programming distributors ("MVPDs") nor the cable networks they carry are relied upon as the primary source of emergency information in local markets. Rather, local television stations have been and continue to be the essential providers of the up-to-date emergency information for hearing-impaired viewers.^{1/} Indeed, in its recent *Second Further Notice of Proposed Rule Making* issued

^{1/} See, e.g., Comments of the National Association of Broadcasters, MM Docket No. 95-176, at 2 (filed Feb. 25, 1998) ["In times of natural disaster or other emergencies, Americans primarily rely on over-the-air broadcasters for the information they need. Because broadcast service is ubiquitous, free, and less subject to interruption than telephone or wired video delivery services, people in emergencies naturally turn to their local broadcast stations."].

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in connection with its new Emergency Alert System ("EAS") rules, the Commission is proposing to prohibit cable systems from overriding emergency related broadcast programming with state and local EAS messages.^{2/} In so doing, the Commission specifically noted NAB's concern that "because of the local nature of broadcast station programming, as opposed to most cable programming services, cable operators' EAS messages will not provide emergency information that is as useful as that which broadcasters provide."^{3/}

Second, it is also clear that transmission of emergency information to hearing-impaired viewers in a timely and economical manner is best achieved by requiring captioning to be inserted at the program source, and *not* by imposing additional captioning obligations on wireless cable operators and other MVPDs who represent the "last link" in the distribution chain and thus in most cases will not even know of an emergency event until after it has occurred.^{4/} Moreover, were the Commission to require each distributor to caption its transmissions independently, every emergency event will give rise to a sudden increase in demand by multiple video program distributors for real-time captioning of the same broadcast programming.^{5/} As noted in the comments submitted by Media Captioning Services, it simply is not practical to

^{2/} *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, FO Docket Nos. 91-301 and 91-171, FCC 98-33 (rel. Mar. 19, 1998).

^{3/} *Second Further Notice* at ¶ 4.

^{4/} See, e.g., Comments of The Wireless Cable Association International, Inc., MM Docket No. 95-176, at 3-4 (filed Feb. 25, 1998) [the "WCA Comments"]; Comments of BellSouth, MM Docket No. 95-176, at 2 (filed Feb. 25, 1998); Comments of the National Cable Television Association, MM Docket No. 95-176, at 6-7 (filed Feb. 25, 1998).

^{5/} WCA Comments at 5.

expect that every captioning service will agree to provide emergency captioning to all comers on an "as needed" basis.^{6/} Thus, unless emergency information captioning is required to be inserted at the source, real-time captioning services will be extremely difficult to secure in emergency situations.^{7/}

Finally, the record confirms that the economic burdens of real-time captioning strongly militate against the imposition of emergency closed captioning requirements on ITFS licensees.

The various cost elements of real-time captioning have been described as follows:

To satisfy a real-time captioning requirement, a station would be faced with substantial costs. It would either have to add one or more real-time captioners to staff or contract with a remote captioning service. The cost of installing the necessary equipment to access a remote service is in the range of \$10,000 per station. Stations would also bear the recurring cost of maintaining two dedicated phone lines (the price for which varies depending upon the two connection points) as well as the per-occasion cost for the service.^{8/}

Not surprisingly, then, one ABC network affiliate has estimated that the costs of real-time

^{6/} Comments of Media Captioning Services, MM Docket No. 95-176, at 3 (filed Feb. 24, 1998) ["Unless a captioning company is captioning a particular local station's programming on a regular basis, it is unlikely that a captioning company would agree to provide emergency captioning on an "as needed," or demand basis. Operationally, it would be imprudent for a captioning company to agree to enter into one or more, *i.e.*, multiple emergency coverage agreements without having a core amount of business from a local station.].

^{7/} See, e.g., Comments of ABC, Inc., MM Docket No. 95-176, at 6 (filed Feb. 25, 1998) ["There is considerable doubt whether there is sufficient capacity in the industry to supply real-time captioning for all broadcasters making simultaneous requests, particularly in the case of a broad scale emergency or an emergency which occurs with very little warning or one which occurs during overnight hours."] [the "ABC Comments"].

^{8/} *Id.*

captioning for news programming could exceed \$3 million per year.^{2/} This, of course, is well beyond the means of many ITFS licensees who, as recognized by the Commission, "transmit programming intended for specific receive sites and not for general distribution to residential television viewers."^{10/} It is for this very reason that the Commission has decided to exempt ITFS programming from any captioning obligations, and nothing in the record suggests that the Commission should now put the public interest benefits of that programming at risk by imposing emergency captioning obligations on ITFS providers.

In sum, WCA submits that any Commission decision in this matter ultimately must turn on the same cost/benefit analysis that lies at the heart of the closed captioning statute. Section 713 of the Communications Act requires the Commission to prescribe rules to increase the amount captioned programming for the benefit of hearing-impaired viewers, *and* to consider the financial resources of video programming providers and the current limitations on the availability of qualified captioners in the marketplace.^{11/} In that spirit, WCA reiterates that the balance desired by Congress can be best achieved by (1) requiring that all captioning of emergency information be inserted at the program source rather than by MVPDs just prior to

^{2/} Comments of The Cedar Rapids Television Company, MM Docket No. 95-176, at 1 (filed Feb. 20, 1998). *See also* Comments of Paxson Communications Corporation, MM Docket No. 95-176, at 2-3 (filed Feb. 25, 1998).

^{10/} *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Video Programming Accessibility*, MM Docket No. 95-176, FCC 97-279, at ¶ 77 (rel. Aug. 22, 1997).

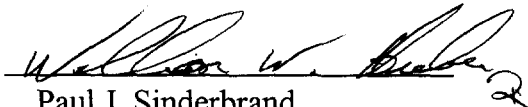
^{11/} 47 U.S.C. § 613. *See also* H.R. Conf. Rep. No. 104-458, at 183 (1996) [directing the Commission to "balance the need for closed captioned programming against the potential for hindering the production and distribution [of] programming."].

distribution of that information to the home; (2) retaining the captioning exemption for ITFS programming; and (3) permitting all video program distributors to ensure access to emergency information programming through either closed captioning or equivalent methods that convey the substance of the emergency information.^{12/}

WHEREFORE, WCA supports the adoption of rules and policies for the captioning of emergency information programming in accordance with its initial comments and the reply comments set forth above.

Respectfully submitted,

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^{12/} See WCA Comments at 6-7; Comments of the Radio-Television News Directors Association, MM Docket No. 95-176, at 6-7 (filed Feb. 25, 1998).